



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]

DECISION

BCS/149541

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on June 19, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly terminated BadgerCare Plus (BC+) benefits for the Petitioner and his wife effective June 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Julie Williamson

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On April 17, 2013, the employer of the Petitioner's wife, Erin School, submitted a verification of earnings indicating the Petitioner's wife works 37.5 hours/week at \$14.46/hour. The agency

counted \$2,331.54. The Petitioner's wife is an hourly employee for Erin School, not a contract employee. In addition, pay statements for March and April, 2013 from Petitioner's wife's part-time job at Pike Lake House Inn were submitted. The agency averaged the income from the pay statements to count \$142.58 every other week.

3. The Petitioner's self-employment income is \$1,483.08/month.
4. On April 22, 2013, the agency issued a Notice of Decision to the Petitioner informing him that effective June 1, 2013, the Petitioner and his wife were not eligible for BC+ benefits due to being over the income limit. The Petitioner's two children were eligible with a monthly premium of \$20.
5. On May 20, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining eligibility for Medicaid, including BC+, benefits, all earned income is counted. In this case, the Petitioner does not dispute the earned income counted by the agency for his employment. He disputed the way in which the agency counted his wife's earned income from the school. He testified that the agency should calculate her monthly income based on nine months of employment with the school.

The Medicaid Eligibility Handbook (MEH) addresses this issue:

When an employed Medicaid group member is paid under a contract, either written or verbal, rather than on an hourly or piecework basis, determine the period of the contract and then prorate the income from the contract over that period.

MEH § 15.5.2.

In this case, the Petitioner does not dispute that his wife is not a contract employee with the school. She is an hourly employee.

The Petitioner produced a letter from Erin School dated June 13, 2013 indicating that the Petitioner's wife had a change in schedule, job position and hourly rate for the period of June 10, 2013 – July 25, 2013. She is scheduled during this period for 32 hours/week at an hourly rate of \$12.72/hour. In addition, the letter indicates that for the period of September 3, 2013 – June 6, 2104, the Petitioner's wife will be employed 28 hours/week.

Based on this letter, the agency worker testified that the agency updated the Petitioner's case and that effective July 1, 2013, BC+ benefits will be re-opened for the Petitioner and his wife with a premium of \$107/month. The worker testified that the Petitioner will be receiving a notice of decision regarding this update. In addition, the worker indicated to the Petitioner that he should report his wife's change in income at the end of the summer schedule so that benefits can be based on current circumstances.

Based on the evidence, I conclude that the agency properly counted the Petitioner's wife's income from Erin School and properly determined that the Petitioner and his wife were not eligible for BC+ benefits for the period of June 1 – 30, 2013.

CONCLUSIONS OF LAW

The agency properly terminated the Petitioner's BC+ benefits for the period of June 1 – 30, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of July, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 25, 2013.

Washington County Department of Social Services
Division of Health Care Access and Accountability